




Office of the State Superintendent of Education

DISTRICT OF COLUMBIA
MAYOR ADRIAN M. FENTY

April 21, 2010

TO: Chancellor, District of Columbia Public Schools (DCPS)
Public Charter School Board
Public Charter School Directors
Principals, DCPS

FROM: Kerri L. Briggs, Ph.D. 
State Superintendent

RE: Individualized Education Program Amendment Guidance

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This Memorandum serves to clarify the expectation of the Office of the State Superintendent of Education (OSSE) regarding amendments to an Individualized Education Program (IEP) as outlined in the Individuals with Disabilities Education Act (IDEA). Local Education Agencies (LEAs) may appropriately amend an IEP when making changes to an IEP. This Memorandum supersedes all previous policy, memoranda and/or guidance promulgated by the State Education Agency. This Memorandum takes effect on April 21, 2010.

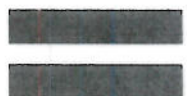
Background

All children must be provided with an opportunity to receive a high quality education and be included in our society. Further, Congressional intent during the 2004 reauthorization of the **Individuals with Disabilities Education Act (IDEA)** was to improve the quality of education that children with disabilities were receiving in public schools and to overcome environmental and attitudinal barriers through equal access to the general education curriculum.

The IEP is an essential component of successfully providing special education and related services to children with disabilities, and it can serve as a platform to improve the quality of education that each child receives. The IEP is developed in collaboration with the child's parents, general educators, school administrators, the child when appropriate, and other key individuals who impact the child's ability to access and participate in the general education curriculum. In addition to providing the instructional framework, the IEP is also an accountability tool that measures academic achievement and verifies whether the child is receiving appropriate education services in the least restrictive environment (LRE).

Key Concepts within the Reauthorized IDEA

IDEA 2004 defines review/revision and amendment as:



Review and Revision

The LEA is responsible for reviewing an IEP periodically, but **not less than annually**, to determine whether the child's annual goals are being met in the LRE. [34 C.F.R. §300.324(a)(6)]. IDEA encourages the IEP team to meet throughout the year when necessary to review and revise the IEP as appropriate to address:

- Lack of expected progress toward the annual goals;
- Discuss new areas of concern including the results of any re-evaluations conducted under 34 C.F.R. § 300.324;
- The child's anticipated needs; and
- The appropriateness of the current placement.

IEP Team Attendance: Review and Revision

A member of the IEP team is not required to attend an IEP meeting, in whole or in part, if the parent of a child with a disability and the LEA agree that the attendance of such member is not necessary because the member's area of the curriculum or related services is not being modified or discussed in the meeting.

A member of the IEP team may be excused from attending an IEP meeting, in whole or in part, when the meeting involves a modification to or discussion of the member's area of the curriculum or related services, if:

1. The parent(s) and the LEA agree in writing to the excusal; and
2. The member submits, in writing to the parent and the IEP Team, input into the development of the IEP prior to the meeting.

Amendment

In making changes to a child's IEP **after** the annual IEP meeting, the parent of a child with a disability and the LEA may agree not to convene an additional IEP meeting for the purposes of making those amendments or modifications and instead may develop a written document that will be used to amend or modify the annual IEP. [34 C.F.R. §300.324(a)(4)]. Similarly, changes to the IEP may be made by the entire IEP Team at an IEP Team meeting by amending the IEP rather than by redrafting the entire IEP. [34 C.F.R. §300.324(a)(6)]. Upon request, a parent must be provided with a revised copy of the IEP with the amendments incorporated. [34 C.F.R. §300.324(a)(6)]. Note that the IEP Amendment process may not be used without convening an additional IEP meeting if the LEA is placing a child in a nonpublic school. IDEA regulation 34 C.F.R. § 300.325 and the OSSE's Policy and Procedure for Placement Review, version 2.0 issued on January 5, 2010, require the LEA to initiate and conduct an IEP meeting prior to placement of the child in a nonpublic school or facility. The remainder of this guidance focuses on amendments to an IEP without an additional IEP meeting.



OSSE's Expectations for LEAs When Amending an IEP Without Convening an IEP Meeting

The LEA must complete the following prior to amending the IEP:

1. After completion of the annual IEP review and revision, the LEA may draft changes to the IEP. [34 C.F.R. § 300.324(a)(6)];
2. The LEA must obtain agreement by the parent of the child with a disability to make the LEA's proposed changes to the IEP without convening an IEP meeting.
3. The LEA must document the agreed amendment(s) using the standard IEP amendment form. This form requires the parent's signature as documentation that the parent has agreed to the amendment without an IEP meeting. If the parent refuses to sign the form, the LEA should document in writing the terms of the agreement with the parent to amend the IEP without an IEP meeting. The IEP amendment form also requires the Special Education Coordinator's signature or equivalent to confirm that the completed IEP amendment form has been delivered to each IEP Team member.
4. The LEA must provide a Prior Written Notice (PWN) to the parent(s) which describes the proposed changes to the current IEP. Along with the other required content of PWN under 34 C.F.R. §300.503, the PWN must include:
 - A description of the proposed amendment action by the LEA;
 - An explanation of why the LEA proposes the amendment action;
 - Description of the data/criteria used to support the proposed amendment;
 - Other options considered, if any, and the reason for rejecting them.
5. Within 5 business days of completing the amendment, all members of the IEP Team, including the parent(s), must receive a finalized copy of the IEP Amendment Form and PWN. Completion of an IEP amendment does not change, replace or extend the current IEP's annual review and revision date, as required under 34 C.F.R. § 300.324(b)(1)(i). Timely delivery of the completed IEP amendment form to all members ensures that the agreed upon change(s) takes immediate effect and that each team member is aware of the purpose and basis of the IEP change(s). The LEA must provide parents with a revised copy of the current IEP including any amendments incorporated through the IEP amendment process upon request.

Technical Assistance and Training

OSSE is committed to ensuring that LEAs have the knowledge base and tools to implement these IEP amendment policies and procedures. OSSE will conduct a series of annual activities to support LEA compliance, including, but not limited to:

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- Clear written guidelines and toolkits for schools concerning specific strategies and tools, to be made available through the direct communication to LEAs and posting on the OSSE website;
- Targeted in-person professional development for school personnel to ensure knowledgeable implementation; and
- Clarification on the appropriate use of the IEP amendment process when an additional IEP meeting is not convened.

OSSE is committed to ensuring that all children with disabilities receive a free appropriate public education. Ensuring that all IEPs are initially drafted, reviewed, revised, and amended to reflect the most recent information on student needs and progress is a critical component of their success.

Compliance and Monitoring

In order to ensure LEA compliance with IDEA and OSSE's amendment guidance, OSSE may conduct unannounced monitoring activities. These monitoring activities will include OSSE's review of randomly selected IEPs that include amendments made without convening an additional IEP meeting. OSSE will review these IEPs and their amendments to determine if the LEA has complied with required documentation, distribution and appropriate use of the IEP Amendment process.

The U.S. Department of Education's Office of Special Education Programs (OSEP) requires that every State Education Agency monitor LEAs to ensure compliance with IDEA Part B, including the development, review, and revision of IEPs. [34 C.F.R. § 300.600]. A finding of noncompliance by OSSE results in the requirement to submit an improvement plan containing corrective actions for each finding of noncompliance. OSSE may suggest or require training and technical assistance to LEA staff when developing corrective actions related to the amendment process. All items of noncompliance must, by federal law, be corrected within one year of the finding; sustained noncompliance by an LEA may result in withholding of Part B grant funding [34 C.F.R. § 300.604(a)]. If you have questions or concerns regarding this memorandum, please contact Amy Maisterra, Chief of Staff, Department of Special Education, at (202) 481-3757, or by e-mail at Amy.Maisterra@dc.gov.